

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG

MARKS CONSTRUCTION CO., INC.

a West Virginia Corporation, on behalf
of the Marks Construction Co., Inc. 401(k)
Profit Sharing Plan
and

**JAMES MARKS, KAREN MARKS,
ANGELA DAVIS, and RICHARD STRAIGHT,**
all individual participants thereunder,

Plaintiffs,

v.

Civil Action No. 1:05CV73
(Judge Frederick P. Stamp, Jr.)

**THE HUNTINGTON NATIONAL BANK and
SHARON HUGHES,**

Defendants.

**DECLARATION OF JON F. DOYLE IN SUPPORT OF
PLAINTIFFS' PETITION FOR ATTORNEYS' FEES AND EXPENSES
PURSUANT TO ERISA § 502(G)**

I, Jon F. Doyle, declare as follows:

1. I am admitted to practice law in California, the District of Columbia, Florida, Georgia, and New York, as well as before the United States District Court for the Northern District of California. I am a partner with ERISA Law Partners, LLP ("ELP"), a boutique firm specializing in the field of employee benefits and in particular in the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

2. This declaration is submitted in support of Plaintiffs' Petition for Attorneys' Fees

and Expenses Pursuant to ERISA § 502(g) in the above styled action. I have personal knowledge of the facts stated herein and if called upon to testify to those facts I could and would competently do so.

3. I have practiced law with major law firms in California, Florida and Georgia for nearly 15 years in the field of employee benefits and executive compensation. I am a Certified Public Accountant and have an LL.M in taxation. I have worked on transactional and litigation matters involving ERISA and the Internal Revenue Code of 1986, as amended (the "Code"). Prior to joining ELP, I was most recently a partner with DLA Piper LLP (US).

4. I currently counsel clients on a wide range of compensation and benefits matters, including plan drafting, fiduciary issues, plan terminations, issues related to health and welfare benefits, and other issues governed by ERISA and the Code.

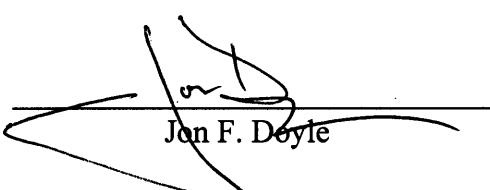
5. I am a member of a number of professional organizations such as the Western Pension and Benefits Conference, the Bay Area Compensation Association, and the National Center for Employee Ownership. I have spoken on compensation and benefits topics at the Western Pension & Benefits Conference, the American Bar Association, WorldAtWork, the National Center for Employee Ownership, and the California Bankers Association.

6. Prior to leaving DLA Piper (US) LLP in May 2009, my rate was \$730.00 per hour. I am familiar with the rates charged by a number of different ERISA attorneys throughout the United States. Based on my knowledge of rates charged by other ERISA attorneys throughout the United States with similar ability, reputation, and experience, a rate of \$475.00 per hour for 2009 is below a reasonable rate for my litigation services. (See Declaration of Bruce H. Wynn attached hereto as Exhibit A).

7. In expending time on this matter, I forwent the opportunity to perform work for

billable clients as well as other contingency matters. During the course of this litigation, as is my standard practice, I have kept contemporaneous time records in increments of six minutes (or 1/10 of an hour). According to the firm's billing records, I have spent 48.2 hours on this matter. Thus, my total fees incurred on the instant case at \$475/hour are \$22,895.00. A detailed description of the time spent by ELP in this matter, including my time, is attached as Exhibit D to the Declaration of Joseph A. Garofolo, filed herewith.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 20th day of November 2009 at San Francisco, California.



Jon F. Doyle

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AFFIDAVIT

The undersigned, Bruce H. Wynn, being first duly sworn, deposes and states upon his oath as follows:

1. I have been a practicing attorney since 1983, and am currently licensed in both Alabama (inactive status) and Georgia (active).
2. I am a senior partner in the tax and employee benefits and executive compensation practices with Morris Manning & Martin, LLP in Atlanta, Georgia. I have practiced law with major law firms in both Alabama and Georgia, and have more than 25 years of experience in the area of employee benefits and executive compensation. I have represented and advised clients in numerous administrative matters before the Internal Revenue Service, the U.S. Department of Labor and the Pension Benefit Guaranty Corporation, and have represented and advised clients with respect to

many tax and Employee Retirement Income Security Act of 1974, as amended ("ERISA") litigation and pre-litigation matters.

3. During my early years of practice in Birmingham, Alabama, I acted as counsel for numerous small businesses and was frequently involved with plan administrative and design issues associated with small businesses. After moving to Atlanta, Georgia, as an attorney with Jones, Day, Reavis & Pogue, I acted as counsel for several Fortune 500 companies with respect to their employee benefit plans (both pension and welfare), assisting in their administrative and compliance efforts and in the design of their plans. Before joining Morris, Manning & Martin, I also practiced law with Long, Aldridge & Norman, LLP, another firm in Atlanta, Georgia.

4. While practicing law with Long, Aldridge & Norman, LLP in Atlanta, Georgia, I met and worked with Jon F. Doyle for approximately three years.

5. Mr. Doyle, during his tenure with Long, Aldridge & Norman, worked exclusively on administrative, transactional and litigation matters involving ERISA and the Internal Revenue Code of 1986, as amended (the "Code"). Since that time, Mr. Doyle has worked with several other major national law firms in various jurisdictions in the area of employee benefits and executive compensation, and is, in my view, an extremely experienced practitioner in this area of the law, nationally known for his skills and abilities.

6. Mr. Doyle displayed and continues to display expertise and extensive knowledge of ERISA and the Code, including the fiduciary duty provisions of ERISA, as well as the prohibited transaction provisions of ERISA and the Code. Mr. Doyle has vast experience dealing with large businesses, assisting them with their employee benefits and executive compensation needs.

7. Based upon my experience, information and knowledge, I believe that Four Hundred and Seventy-Five Dollars (\$475.00) per hour is at, and more likely is below, a reasonable hourly rate in the national market for ERISA lawyers with the knowledge, training, experience, abilities, and expertise of Mr. Doyle. In my experience, most practitioners in the Atlanta, Georgia area with Mr. Doyle's skills and abilities would charge hourly rates around five hundred dollars or higher.

The foregoing is true and accurate to the best of my knowledge, information and belief.

Bruce H. Wynn
Morris, Manning & Martin, LLP
1600 Atlanta Financial Center
3343 Peachtree Road, N.E.
Atlanta, GA 30326
(404) 504-7694

Subscribed and sworn to before me by Bruce H. Wynn this 19th day of November,
2009.

